

would have been a loss for a responsible judiciary and a defeat of good government.

You could say the minority is arguing for a more responsive, a more public bench, one which will continue as a coordinate branch of government subject to checks by the other two major branches as well as periodic public check. Does this mean perhaps that the minority represents a visionary ultraliberal point?

If retaining some rights in the citizens for their elected representatives to matters pertaining to the judicial branch is liberal, then we accept the appellation. Certainly the majority is dedicated to those matters, to those alleged progressive principles of a strong independent judiciary.

This of course is not surprising for the majority of twelve is composed of eleven lawyers and the spouse of one.

The background of the minority is somewhat more diffuse, two of us are attorneys, one a labor leader, one a legal secretary, one a school teacher, two are members of the legislature. We are, I believe, a representative body certainly, no better than the majority but I submit of concurrent jurisdiction.

We likewise wish the judiciary to be representative of the best legal thought in the State, but that alone is not enough. While being people with outstanding independent-thinking public servants, the judiciary must also be responsive to the needs of the citizens. Those of us supporting the Minority Report of this Committee were motivated by desire to see even greater improvement in our state judicial system than some of our colleagues on the majority. The improvements we seek are directed primarily, but certainly not exclusively toward insuring that this branch will operate in concert with established principles of government.

Because I am confident that you have at least perused our Minority Report and since we will later discuss each amendment to the report of the majority, in detail, I will limit my remarks to those matters we consider to be of the greatest import, together with a very brief philosophy behind our position.

First, let us look at selection of judges.

Although a four-tier system of state courts is anticipated, a matter we partially support, you should view this as a dual arrangement. That is, we will have trial courts and appellate courts. Certainly this division is extremely important for, first,

the overwhelming majority of citizens involved in either civil or criminal trials are concerned only with trial courts. The judicial process at this level is a very personal one and the judicial officers of the courts must be acutely conscious of the human element in justice not only from the standpoint of plaintiff and defendant, but also with respect to the jury when one is involved.

Judges of the court at the trial level are very much public officers. They are involved daily with the citizens and they should be responsible to the citizens. This does not mean trial court judges should allow opinions to affect their decisions, I mean public opinions. An extended term of office as we propose in the Minority Report would insure against this prospect and judges elected thereunder will continue to apply the law and not concern themselves with popularity polls.

Our proposal means, however, that the judges should not consider themselves completely detached from the general public. Clearly appellate court functions differ from trial courts. On the appellate level interpretation of the law is the essential point of dispute. Naturally the public may well be concerned with the outcome. Indeed, reporting of cases decided at this level tends to be more complete than at the trial level. Still these are must less public courts simply because it is lawyer versus lawyer or issue versus issue with no witnesses and no jury.

Attributes called for in a trial judge are not identical with judges serving on an appellate level, although indeed many outstanding appellate court judges have carried their highly desirable judicial trial court traits to our appellate courts.

The relationship between citizen and judge likewise is quite different. We feel the selection process employed in filling judicial vacancies at these two different levels should also be different. We endorse the use of judicial nominating commissions for judges of appellate courts. That is, the proposed Court of Appeals and the intermediate appellate court, although we strongly recommend that such commissions not include a judge as a member.

There are some extremely important reasons why we would rather see judges at the trial court level selected in essentially the same manner as is presently employed.

For one, we wish to have the public participate actively in the selection of trial judges. By first having the governor ap-